

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

EVA RODRIGUEZ,

Plaintiff,

v.

EDMUND D. EDELMAN CHILDREN'S  
COURT OF CALIFORNIA, et al.,

Defendants.

No. 2:21-cv-0066-KJM-CKD PS

ORDER TO SHOW CAUSE

This case comes before the court on plaintiff's motion to proceed in forma pauperis ("IFP") with her complaint filed January 13, 2021.<sup>1</sup> (ECF Nos. 1-2.) See 28 U.S.C. § 1915 (authorizing the commencement of an action "without prepayment of fees or security" by a person that is unable to pay such fees). The undersigned declines to rule at this time on the IFP motion, however, because an initial review of this action indicates that plaintiff filed this case in the wrong district court. Instead, the court orders plaintiff to show cause why this action should not be dismissed without prejudice or transferred to the U.S. District Court for the Central District of California, under 28 U.S.C. § 1406(a).

Plaintiff brings this 18-count complaint against some 14 defendants, challenging the removal of two of her minor children from her custody and their placement in foster homes and in

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<sup>1</sup> Because plaintiff is representing herself, this action proceeds before the undersigned pursuant to Local Rule 302(c)(21) and 28 U.S.C. § 636(b)(1).

1 their father's home for the last several years. (ECF No. 1.) Plaintiff primarily challenges the  
2 prosecution and outcome of the separation proceedings that took place from 2017 through 2019 in  
3 the Edmund D. Edelman Children's Court, a division of the Los Angeles County Superior Court.  
4 Among the named defendants are the Children's Court; senior officials of California and Los  
5 Angeles human services agencies; the Los Angeles County Department of Children and Family  
6 Services ("DCFS"); and several DCFS social workers and supervisors involved in her children's  
7 case. (Id. at 1-2, 9-10.)

8 Plaintiff states that the events at issue occurred "mainly in the Los Angeles, Riverside  
9 County," where her children were placed in various foster homes, and that venue is proper in  
10 "this Judicial District" because a substantial part of the events or omissions giving rise to her  
11 claim "occurred in the Central District of California." (Id. at 10.) Based on these statements and  
12 the complaint's factual allegations, it appears that plaintiff meant to file this suit in the Central  
13 District of California but instead filed suit in the *Eastern* District of California. As plaintiff seems  
14 to acknowledge, this judicial district—the Eastern District of California—likely is not a proper  
15 venue for this case.

16 Defects in venue may be raised by the court on its own where the defendant has not yet  
17 responded to the complaint and the time for doing so has not run. See Costlow v. Weeks, 790  
18 F.2d 1486, 1488 (9th Cir. 1986) (permitting courts to transfer case on its own initiative, "so long  
19 as the parties are first given the opportunity to present their views on the issue"). Venue in a civil  
20 action is generally proper in (1) a judicial district where any defendant resides, if all defendants  
21 reside in the same State in which the district is located, (2) a judicial district in which a substantial  
22 part of the events or omissions giving rise to the claim occurred, or (3) a judicial district in which  
23 any defendant is subject to personal jurisdiction at the time the action is commenced, if there is no  
24 district in which the action may otherwise be brought. 28 U.S.C. § 1391(b).

25 Although it is plausible that all defendants reside in California within the meaning of  
26 § 1391(b)(1), no defendant is alleged to reside in the Eastern District of California. All the  
27 entities plaintiff names as defendants—ranging from the Children's Court, to DCFS, to the City  
28 of Whittier Police Department—are located in counties that fall within the Central District of

1 California. Plaintiff does not allege where any of the individual defendants reside, but nearly all  
2 of them are employees of Los Angeles County agencies. Two of the named defendants are (or  
3 were) California state officials for whom plaintiff lists business addresses in Sacramento, which is  
4 in this district. (ECF No. 1 at 2.) But neither of these defendants is mentioned anywhere in the  
5 complaint besides the party identification sections, which contain no substantive allegations  
6 against them.

7 As for § 1391(b)(2), it appears to the undersigned highly unlikely that any of the events or  
8 omissions giving rise to plaintiff's claims occurred in this district. According to plaintiff, herself,  
9 the events or omissions at issue occurred "mainly" in Los Angeles and Riverside counties, which  
10 plaintiff correctly identifies as falling within the Central District of California. (ECF No. 1 at 10.)  
11 And finally, this district does not appear proper under § 1391(b)(3) because the action could have  
12 been brought in the Central District of California.

13 When a case is filed in the wrong district, the district court "shall dismiss, or if it be in the  
14 interest of justice, transfer such case to any district or division in which it could have been  
15 brought." 28 U.S.C. 1406(a). Plaintiff is therefore ORDERED TO SHOW CAUSE why this  
16 action should not be dismissed for improper venue or transferred to the Western Division of the  
17 U.S. District Court for the Central District of California. **Within fourteen (14) days of the date**  
18 **of entry of this order, plaintiff shall file a response.** In her response, plaintiff should indicate  
19 whether she intended to file this case in the Central District of California, and if not, she must  
20 explain to the court why the case should remain here, in the Eastern District of California.

21 Dated: March 29, 2021

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23 CAROLYN K. DELANEY  
24 UNITED STATES MAGISTRATE JUDGE  
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